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DATE: August 13, 2008
PROJECT: Lim Property
CASE #: SPEX08-LE-028, SPEX08-LE-029, SPEX08-LE-030,
REZN08-LE-007, TIAS08-LE-003
PROJECT ID: 9227/9228/9229/9230/9231
CASE PLANNER: Holly Meade
SUBMISSION #: 1st
COMMENT DUE DATE: July 28, 2008

REVIEW AGENCY COMBINED COMMENTS

For resubmissions, please provide a comment response letter indicating how the below referenced comments have been addressed. Changes on plans should be highlighted as well. Failure to do so will result in the resubmission not being accepted.

Planning (Holly Meade)

- Assurance needs to be provided that this development will not be entirely retail, otherwise a Comprehensive Plan amendment will be needed. This area is not intended to serve as a major focus for retail. Offices and institutional uses are also sought.
- The layout is not in conformance with the Comprehensive Plan. The buildings should have active frontage along the main street, with windows or displays.
- The proposed east/west road should function as the main street, with buildings located up to the street and parking located in the rear.
- The area needs to be pedestrian oriented providing pedestrian circulation along the roads and directly to the businesses.
- The main pedestrian entrance for all buildings shall be directly off the main street.
- Details should be provided on how the applicant proposes to deal with services (i.e., utilities, deliveries, etc.).
- Heavy landscaping will need to be provided along Route 17 and Route 28, this has not been addressed with the rezoning and special exception applications.

- Address Section 2-410 of the Zoning Ordinance related to public safety and the need for all proposed entrances.
- Comments have not yet been received from VDOT, yet note their earlier comment that VDOT cannot support proposed concept of temporary full access entrance.

Planning (Kim Abe / Kristen Slawter)

The Comprehensive Plan envisions this corner as part of the Bealeton Town Center. Town Center is used here conceptually rather than a specific land use designation. There are plan policies related to the Bealeton Town Center in its entirety in terms of uses and pedestrian orientation, and there are other policies dealing with the actual planned land uses at this particular site as part of this Town Center. The proposed project is in an ideal location for a creative development idea and lot layout that will benefit the residents and business owners of Bealeton in the long-run. The Comprehensive Plan states that the County is determined to provide alternative development options more consistent with traditional design.

1. Institutional-Office is the land use classification for the project. The land use plan designates this area for Institutional/ Office as shown below:

“Commercial/Office/Institutional Uses

Commercial, office and institutional uses would initially be focused on the two roads parallel to Route 17, Willow Drive to the east and Church Road to the west. Anchoring commercial and office functions on the southern end of Willow Drive is the present medical facility, which will be joined by a new County Library and Post Office. Church Road north of Route 28 would transition in character from commercial to office and institutional uses – such as churches, fraternal organizations and civic groups. Crossing Route 17, these office-institutional uses would conclude just north of Liberty High School.”

2. Secondly, there are policies specific to how the Town Center development (in Introduction Section) should be realized, as follows:

“General Town Center Design Principles:

The Bealeton Town Center will be designed as a mixed-use commercial core surrounded by a mix of institutional and office uses and a mix of higher density residential uses. This Town Center will be surrounded by a well-defined edge of parks and natural areas. In addition, the Town Center will:

1. *Be designed in a generally rectilinear pattern of blocks and interconnecting streets and alley ways, defined by buildings, street furniture and landscaping, a place to be shared equally by pedestrians, bicyclists and cars.*
2. *Contain a core with a mix of lively and mutually supportive commercial and civic uses, such as a library, post office, churches, volunteer and fraternal halls, and spaces, and should*

contain prominent civic features, such as fountains, national and local memorials, which establish and commemorate the place.

- 3. Possess urban parks and squares distributed throughout the Town Center. An important Square and a Town Park will be located at the core of the Town Center.*
- 4. Be designed so that similar uses in the Town Center will generally front one another across local streets, while dissimilar uses will generally abut along alleys, rear property boundaries and across collector roads."*

The proposed Rezoning application (REZN08-LE-007) and Special Exception application (SPEX08-LE-028, SPEX08-LE-029, and SPEX08-LE-030) projects, in their current form, may be found by the Planning Commission to be inconsistent with the aforementioned Comprehensive Plan goals for a mix of office and institutional (to include civic uses such as non-profit, religious or public organizations) uses at this Town Center location. Discussions should continue regarding a mix of institutional, commercial and office uses, possible reduction in the amount of drive-through Special Exceptions, a commitment to high-quality regionally specific design scheme in a traditional rectangular grid pattern layout, extensive landscaping with retention of any existing mature trees, and a trail and sidewalk system. (Ideas for consideration: (1) a row of narrow row units for office, commercial and civic uses with parking in the rear, or (2) a prominently displaced institutional use or office with 25% retail shopping or restaurants at the base of the building, or (3) a nicely landscaped, public square and garden in the center or rear of a complex would look attractive and be a gathering spot for patrons.)

Zoning (Wally Horton)

Special Exceptions:

1. This Special Exception is being reviewed simultaneously with REZN08-LE-007, SPEX08-LE-029 and SPEX08-LE-030.
2. A site plan is required for this use pursuant to Zoning Ordinance Section 3-313.11.
3. For drive-in windows, banks are required to have sufficient area for eight (8) stacking spaces for the first drive-in window and two (2) stacking spaces per each additional window. (Zoning Ordinance Section 7-104.7)
4. The Applicant has submitted a Concept Development Plan (CDP) that allows for very little in the way of review for the proposed drive-thru as it relates to requirements of the Zoning Ordinance. How the drive-thru window will be integrated on-site with other zoning requirements such as setback requirements, landscape buffer yards and other pertinent Zoning Ordinance requirements will need to be addressed with review of the final development plans for the development. At present, staff is not able to ascertain whether the drive-thru will or will not conform to Zoning Ordinance requirements. It is noted however, that it may be difficult to fit the circulation required for three separate drive-through windows into the site, given the proposed internal street system and the multiple uses.

5. The following zoning ordinance standards are applicable:

a. 5-006, General Standards

Zoning Staff defers to Planning Staff the assessment of standard compliance.

Rezoning:

Zoning Staff would strongly recommend that the Planning Commission and Board of Supervisors not approve the rezoning until the applicant amends the application to address the issues identified by staff, including rewriting proffers. Staff is particularly concerned about the proffers, which are unclear and ambiguous and therefore will be difficult to enforce. In addition, much of the language is meaningless, committing to requirements already in place under the Zoning Ordinance (and sometimes committing to less than required by the ordinance). Proffers cannot override Zoning Ordinance requirements and cannot commit the County or other landowners to any actions and approving proffers with such language does nothing but confuse requirements and mislead potential future landowners. In order to be enforceable, proffers must be clearly stated and include timing requirements.

General:

1. The 1.56 acre parcel (6899-16-9374) was rezoned in 2002 from RA/Rural Agriculture to C-2/Commercial Highway, with proffers limiting certain uses on the property and addressing transportation improvements. As the proposed rezoning includes this smaller parcel, if approved both parcels will be subject to a single set of proffers. In that rezoning, the parcel was identified as containing 1.618 acres; it is not clear why the acreage has changed.
2. Although a concept plan is shown, it is very general in nature and, in any case, the applicant does not proffer to comply with the concept plan. The Planning Commission and Board of Supervisors should be aware that anything shown on the Concept Plan, including possible uses, has no meaning in the context of a rezoning approval.
3. This rezoning is being reviewed concurrently with three (3) Category 13 Special Exception applications for the following:
 - a. A drive through bank (#SPEX08-LE-028)
 - b. A drive through restaurant (#SPEX08-LE-029)
 - c. A drive through pharmacy (#SPEX08-LE-030)

Access:

4. Access to/from the properties is proposed on both Route 17 and Route 28; the proffer language presumes these multiple access points, in violation of the Zoning Ordinance. The Zoning Ordinance does not allow a parcel to take access to/from a higher standard street unless the Board approves a waiver, finding that such access is necessary to improve public safety (Section 2-410). Route 17 is an Principal Arterial street and Route 28 is a Minor Arterial,

therefore no access onto Route 17 is allowed without approval of a waiver. The applicant has not requested such a waiver nor provided any analysis in support of a waiver. Staff would strongly recommend that the Planning Commission and Board of Supervisors not approve the rezoning until the applicant amends the application to address this issue.

5. The temporary entrance located approximately 14 feet from the side lot line violates Zoning Ordinance Section 3-504.3, which requires that an entrance be a minimum of 20 feet from a side property line.

Uses

6. Although the Concept Development Plan (CDP) submitted as part of this rezoning identifies the proposed uses as being retail shops, a bank, a pharmacy, and two drive-thru restaurants, these uses are not proffered by the Applicant and the CDP is not tied to proffers. The proffers only limit the following uses:
 - a. Category 3-309 "Outdoor Recreation"
 - b. Category 3-318 "Agriculture"
 - c. Category 3-319 "Extraction"
 - d. Category 3-320 "Public Utilities"

Therefore, if approved as proposed, a much broader range of uses will be allowed by-right, to include Motor Vehicle related uses such as a Service Station, Auto Repair, Auto Dealership, Car-wash, etc. In addition, while four "smaller" uses are shown on the concept plan, the site could be developed with a single, larger use (i.e. a 50,000 square foot retail use). The Planning Commission and Board of Supervisors should consider whether this broader range of possible uses is appropriate at this location when considering the rezoning.

Proffers:

7. The statement on page 1 of the proffers: "These proffers include the dedication of real property and are thus subject to the conditions set forth in Virginia Code §15.2-2298(B)" does not appear to be relevant to this rezoning and should be eliminated from the proffers. If the applicant believes this is applicable in this instance, please clarify what significant dedication is proposed unrelated to requirements for this project.
8. The first sentence of Proffer #3 is meaningless and should be eliminated. It agrees to submission and approval of a landscaping plan, which is already required pursuant to Section 7-601.1 of the Zoning Ordinance.
9. The second sentence of Proffer #3 states that the "applicants shall preserve and reserve environmental features wherever possible and shall remove specimen trees only as necessary for roads, driveways and building sites." This language is also meaningless and impossible to administer or enforce. Ideally, if there are significant environmental features or trees on the property they should be identified as this time and specific determinations made as to whether they are required to be preserved. In any case, Section 7-603.1 already limits clearing to only those areas necessary for loading, parking, streets, utilities and buildings.

10. Proffer #4 is meaningless and should be eliminated. It agrees to some of the existing lighting limitations contained in Article 9 of the Zoning Ordinance.
11. Proffer #5 is unclear about the timing and nature and actual commitments of the applicant with respect to interparcel connections and also appears to commit other landowners and the County to actions, which cannot be done by proffer. Specific issues include:
 - a. The size and character of the proposed interparcel connectors is ambiguous, other than a reference to 12 foot travelways. Are the connectors to be public streets? Easements over private property? If easements, are they aisles through the parking lot, or seperated? The size of easements and necessary improvements rely on this assessment and some understanding of the nature of the improvements should be reflected in the proffers. Proffer #8 suggests the intention to provide public streets, in which case sufficient right-of-way to accommodate a public street should be provided.
 - b. The language "*will construct necessary improvements therein in conjunction with other landowners*" is ambiguous. Is the applicant committing to construct all of the improvements? Or only some unspecified portion?
 - b. The language "*as are deemed necessary by the County, the Applicants and VDOT*" renders the commitment meaningless. This allows the applicant to not provide improvements simply by stating they aren't necessary. Determination as to necessity should be up to County and VDOT.
 - c. The language "*Funds sufficient to provide interparcel travelways....*" is ambiguous. As the preceding sentence states the access is to between Routes 28, 17 and 837, is the applicant funding construction between these points, or only on their portion of property? If only on the subject property, how will access be sufficient for the property? Nor does the language actually commit the *Applicant* to the funding.
 - d. The language "*The Applicants shall dedicate right-of-way for interparcel access to adjacent properties to the southwest and northwest at the time of the first subdivision plat or final site plan*" is unclear. Is the intent to dedicate with whichever comes first, the site plan or subdivision? No lots are shown on the concept plan, so what subdivision is intended?
 - e. The language "*the Applicants shall request Fauquier County to acquire necessary right-of-way and/or temporary or permanent easements through its power of eminent domain, at the Applicant's expense*" along with the following up language setting forth how the applicant is to request County action, seems to suggest that the County is agreeing and/or somehow required to pursue eminent domain. Proffers cannot tie the County to any action. As written, if the County does not pursue acquisition, the proffers cannot be met and the project cannot move forward. This should be clarified so there is no misunderstanding.

- f. The language "*the Applicants shall construct temporary means of ingress and egress as required by VDOT*" does not establish a time requirement for such construction.
- 12. Proffer #6 establishes no time-frame for dedication for acceleration and deceleration lanes along the frontage. Also, the language "*as deemed necessary by the County, the Applicant and VDOT*" gives complete authority to the applicant to decide to not dedicate regardless of County and VDOT requirements. Also, the language does not require construction of the improvements, even though these are necessary to serve the proposed project.
- 13. Proffer #8 needs to be reconciled with earlier proffers regarding the size and character of inter-parcel connectors. If dedication is intended, no time-frame for dedication is committed to.
- 14. Proffer #9 commits to construction of an entrance which conflicts with Zoning Ordinance requirements and should be eliminated. (See earlier comments.)

Engineering (Michael Edelen)

The Engineering Department has reviewed the above referenced rezoning application sealed on June 17, 2008, by Thomas C. Pickering, P.E. The plan as submitted does not use the County's methodology for meeting the water quality requirements and must be revised prior to approval.

Code Compliance:

- 1. The stormwater management concept plan shall use the Occoquan Method in accordance with the Northern Virginia BMP Handbook to show the proposed water quality measures can meet the minimum 80% site coverage and 40% phosphorus removal requirements. (Fauquier County Design Standards Manual 203.2 #1, 204.2 #2, and A204.2.2)

Findings / Recommendations (Should be addressed prior to approval of rezoning):

- 1. Underground StormTech systems located in soils subject to seasonal high water tables will require a geotechnical analysis to determine if measures are needed to exclude groundwater from entering the facility; or install an impermeable liner with an adequate underdrain system in accordance with the Virginia Stormwater Management Handbook and manufacturer's design recommendations.
- 2. A soil analysis will be required if the underground StormTech system is designed for infiltration purposes. The soil types within the subsoil profile, extending a minimum of 3 feet below the bottom of the facility, shall be identified to determine whether the infiltration rate or permeability of the soil will support the use of infiltration practices in accordance with the Virginia Stormwater Management Handbook.
- 3. A pretreatment measure shall be used to remove sediments or other substances from the stormwater runoff before it enters the underground StormTech system.

4. It does not appear that the underground StormTech system will be capable of discharging into an adequate receiving channel onsite and may require offsite channel improvements and drainage easements.

Future Action(s):

1. The “C” factor, CN, Tc and other pre-condition assumptions will be evaluated with the final construction plans based on values from the Fauquier County Design Standards Manual.

Soils (BJ Valentine)

Findings:

1. Based off of the Fauquier County Soil Survey and The Interpretive Guide to the Soils of Fauquier County, the majority of the site is rated “GOOD” (71B) for general development potential using central water and sewer, but bedrock may be encountered between 40-60” below existing grade. The remainder of the site is rated “FAIR” (74B) to “POOR” (14B) due to issues with a high seasonal watertable, low bearing capacity, depth to bedrock, potential for shrink-swell clays, and soil map unit 14B may have hydric soil inclusions. All of the soils on the property are listed as Prime Farmland (14B is listed as Prime farmland if protected from flooding or not frequently flooded during the growing season).
2. The proposed underground SWM facility is located in a soil that contains a high seasonal watertable, poor permeability with depth, low bearing capacity when wet, potential for shrink-swell clays, and is shallow to bedrock (20-40”). Be advised that the facility will have to be designed to overcome these issues.
3. Comments may change substantially when preliminary soil report is submitted.

Future Actions:

Preliminary Soil Report
Geotechnical Investigation

Parks and Recreation (Don Schenck)

The County Comprehensive Plan and recently approved Connections Plan call for improved pedestrian access in all service districts. It is unclear what is being provided toward this County objective with this plan and draft proffer statement; please clarify. County staff could assist with recommendations if needed.

VDOT (Kim Yeatman)

Traffic Impact Analysis:

1. Provide a diagram showing the configuration of the three entrance scenarios A, B and C.
2. Concept Development Plan dated June 17, 2008 does not appear to be consistent with the TIA.
3. Appendix F – Access Management Design Standards as well as 2003 Minimum Standards of Entrances to State Highways do not include provisions for “Temporary Full Access”; therefore the design criteria must meet all commercial entrance standards currently in place. For this site; access points, left turn lanes and crossover spacing must be in accordance with Road Design Manual for Rural Minor Arterial Streets.
4. Right-in/right-out on Route 28 is shown on the CDP, but it has not been addressed in the TIA. It was our understanding that if full access on Route 28 was provided that the right-in/right-out would not be needed.
5. Page 2 indicates three Proffered Improvements which have already been proffered to be built by others. There are no Proffered improvements listed which the developer is committing to provide. The signal at Rte 17 and Independence has been proffered by both Colonial Crossing and Freedom Place. An eastbound lane on Route 28 at Route 17 is shown on the Quarles Site Plan, but has not shown on the CDP. A signal at Route 28 and Station Drive/Independence Avenue is scheduled to be installed by VDOT this year.
6. Suggested Improvements have also been indicated on Page 2, but it does not specify who is intended to complete these improvements. The developer has not even committed to doing the improvements that are being necessitated by his development such as a right turn lane into the site driveway on Route 17 and a signal at the site driveway on Route 28.
7. Provide a table of comparison for the existing, background and build out levels of service and queue length for each scenario A, B and C.
8. Provide a table of comparison showing the build out levels of service and queue lengths for scenario A, B and C for a comparison of the three alternatives.
9. Table 2 on page 11 provides a trip generation summary for the other developments that were included in the study, but the trip generation rates for Popeyes and Quarles are not consistent with the TIA’s done for those projects. Popeyes TIA did not provide any AM peak traffic as their site is not open for business.
10. Page 14 Figure 6 – 2011 Background Lane Geometry and Levels of Service indicates the following:
 - a. Diagram 1 shows a Suggested Improvement of a signal at Route 17 and Old Marsh Rd, but this is a proffered improvement by the Colonial Crossing project.
 - b. Diagram 6 shows a Suggested Improvement of a 4th leg of the intersection with a signal, but this leg of the intersection is to be built by Wexford Village. The 4th leg is

not needed without the proposed development. A traffic signal is already in place for the existing 3 legs of the intersection, and Wexford Village will need to signalize the 4th leg when they build their access.

11. Pages 32 through 36 provide tables of the levels of service and back of queue for the build-out year with the suggested improvements for scenario A, B, and C. The intersection of Route 28 and Independence Avenue/Station Drive is showing an 857' queue for the west bound through lane even with the signal in place.
12. The conclusion on page 52 is indicating that all of the overall levels of service for the studied intersections are maintaining an LOS of D, but it does not indicate that individual legs of the intersections are experiencing a decrease in the level of service to E and F.
13. Provide an electronic copy of the TIA with the resubmission.

Concept Development Plan:

14. The CDP and Proffer 9 are proposing a "Temporary" Full Access Entrance on Route 28 until such time as Church Street is opened. Appendix F – Access Management Design Standards as well as 2003 Minimum Standards of Entrances to State Highways do not include provisions for "Temporary Full Access"; therefore the design criteria must meet all commercial entrance standards currently in place. For this site; access points, left turn lanes and crossover spacing must be in accordance with Road Design Manual for Rural Minor Arterial Streets.
15. Proffer 9 also appears to indicate that the developer will construct the road connecting their property with Church Road on the adjacent property, but it is not shown on the CDP.
16. Indicate on the plan who will be responsible for maintenance of the trail.
17. The Freedom Place rezoning showed Bowers Run Road at Route 27 being cul-de-saced, but this proposal is proposing to leave this access in place.
18. Need to provide clarification of what is to be done at the intersection of Bowers Run Road (Route 837 not 3837). CDP is showing what appears to be two roads running parallel to each other. The access to existing Bowers Run Road from the road into the shopping center also appears to be too close to the intersection of Route 17.
19. The access to Bowers Run Road was not addressed in the TIA.
20. Proffer 8 is indicating the internal roads for the shopping center will be dedicated and designed for state maintenance; however, shopping center roads do not generally qualify for acceptance for maintenance. CDP needs to indicate whether the roads are to be private or public.
21. If the roads are proposed to be public, the following will need to be addressed:

- a. Water and sewer need to be located outside of the pavement.
 - b. Plan needs to show road width and right-of-way width in accordance with state standards.
 - c. Streets will need to meet service requirements for acceptance based on the Subdivision Street Requirements Manual.
22. Indicate vehicle trips per day on all roads shown on the CDP for both internal and external roads.
23. Entrance spacing needs to be dimensioned to ensure that the proposed entrances are in accordance our standards. Distance to future Church Street should also be included.
24. Improvement to Route 28 being provided on the Quarles site plan should be shown on the CDP.
25. All road improvements to be done by this project should be shown on the CDP.
26. Road Design Manual Appendix F – Access Management Design Standards is indicating that a right turn lane on Route 17 to the proposed entrance is required, but the proffers are not indicating construction of this and the CDP does not show the turn lane.
27. Proffer 6 indicates dedication of right-of-way on Routes 17, 28 and 837, but none has been shown on the CDP.
28. Dimension width of existing right-of-way from centerline to property line on all existing state maintained roads.

Please provide a comment response letter indicating how the above referenced comments have been addressed. The comment response should be as specific as possible, and include the page number where the information can be found. All corrections to the plan should be highlighted.

Water and Sanitation Authority (WSA) (J. Wayne Stephens)

This project is located within the Bealeton Service District. The Authority has adequate water and sewer capacity to serve the project, provided the owner pays all associated fees and develops water and sewer infrastructure in accordance with the Authority's Operating Code and Utility Standards Manual. Some off-site infrastructure construction may be required to obtain sewer and/or water service.

Emergency Services (Phil Myer)

Reference the Zoning request case REZN08-LE-007 for several commercial businesses at the corner of Rte 17 and Rte 28, The Department requests funding for the equipment and installation of an

Opticom system at the traffic light which controls Rte 17 & Rte 28. This system will benefit public safety services and the public traveling through that area.

MCV Associates, Inc. (Joe Mehra)

1. The site trip generation in the Scoping Agreement does not agree with the trip generation used in the report, although the land uses and density are the same. The differences may be due to use of average rates versus equations or due to use of “peak hour of generator rates” versus “peak hour of adjacent street traffic”. Please clarify. Further, the trips for banks have utilized the square feet as an independent variable. If the number of drive-throughs are greater than 2, then the “number of drive-through lanes” should be used, since it results in higher trip generation.
2. Figure 6 on page 14 shows a southbound right turn lane on Route 17 at Village Center Drive, is this proffered by the Wexford Village Developer?
3. TABLE 3 on page 15 should include only proffered and committed roadway improvements and not “assumed improvements”. Similarly, Tables 5A, 5B and 5C and Tables 6A, 6B and 6C, should include developer proffered improvements in addition to the background improvements included in Table 3. Assumed improvements do not provide a realistic picture. The levels of service and queue lengths should be presented with the proffered and committed roadway improvements.
4. In Scenarios A and B, approximately 178 vehicles are projected to weave across 3 to 4 lanes of traffic on US 17, from Site Driveway # 1 to make a left turn or U-turns at the traffic light on Route 28. A weaving analysis should be performed to show that this movement can be accommodated safely and at an acceptable level of service.
5. The heavy vehicle percentages on US 17 and Route 28 have not been applied consistently at all intersections. Heavy vehicles on Route 17 are 15% and 4% on Route 28. Some intersections have used a 2% factor. These need to be corrected.
6. There seems to be some errors on the application of pass-by trips. Based on drive-way counts, the total trips to Route 28 westbound are actually 25% and not 20%, as shown in Figure 7A. Similarly, the total trips to Route 17 northbound is 25% and not 30%. These should be corrected or explained.
7. In the Conclusion section on page 37, the following improvements are proffered:
 - Route 17/Independence Avenue signalization
 - Route 28/Station Drive signalization
 - An eastbound through lane on Route 28 at Route 17All these three improvements are being made by other developers or VDOT. What improvements is the developer proffering?
This section also presents suggested improvements and they include:
 - Route 17/Old marsh Road signalization
 - A southbound right turn lane along Route 17 at the site driveway

- A westbound through lane on Route 28 at Route 17
- Route 28/Site Driveway # 2 signalization

All these suggested improvements are probably needed due to the site and have not been proffered by the developer.

8. A summary table(s) should be provided that compares levels of service and queues for existing, background and total site conditions with only proffered and committed roadway improvements.

Sheriff's Office (Sheriff Paul Mercer, Jr.)

As long as the applicants satisfy the requirements as set forth by Fauquier County and VDOT this request will not present a problem to the community or issues with traffic.